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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANCISCO BARAJAS,

Defendant and Appellant.

B195400

(Los Angeles County
Super. Ct. No. SA043568)

THE COURT:^{*}

Francisco Barajas (defendant) appeals from the order revoking and reinstating probation previously granted upon defendant's negotiated pleas of guilty to two counts of burglary of a vehicle (Pen. Code, § 459) and extending probation to November 22, 2009. The trial court also reinstated probation on the same terms and condition, but required defendant to spend 92 days in the county jail, with credit for time served.

We appointed counsel to represent him on appeal.

After examination of the record, on February 27, 2007, counsel filed an "Opening Brief" in which no issues were raised. On February 28, 2007, we advised defendant that

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BOREN, P. J., DOI TODD, J., ASHMANN-GERST, J.

he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received to date.

On December 19, 2001, defendant pled guilty to two counts of burglary of a vehicle, and upon his pleas, the People agreed to dismiss the two other charges in the information of burglary of a vehicle. As conditions of three years of formal probation, defendant was ordered to spend 180 days in the county jail, to report to the probation officer, to reimburse the four victims for their losses, and to pay a restitution fine and a parole revocation restitution fine of \$200, the latter of which was ordered stayed.

On April 17, 2002, the probation department filed a report indicating that defendant had not reported to the probation officer following his release from custody. The trial court preliminarily revoked probation and issued a bench warrant for defendant's arrest. On September 26, 2006, defendant appeared in court in custody, and the bench warrant was recalled.

The probation report of October 17, 2006, indicated that defendant, now age 27, was recently arrested on September 26, 2006, in Redondo Beach, for falsely identifying himself to a police officer. He subsequently was granted summary probation in the unrelated case arising from his Redondo Beach arrest. In the current case, defendant owed restitution and other probation fees, which totaled \$3,720.67. The probation officer recommended reinstatement on probation.

On October 17, 2006, during the probation violation hearing, defense counsel indicated that defendant had been deported in 2001. Defense counsel said that she suspected that the recent false identification offense probably occurred because defendant had reentered the United States illegally. He was arrested six months later on September 23, 2006. Currently, there was no immigration hold lodged against him.

The trial court told defense counsel that it would reinstate defendant on probation if defendant spent an additional 60 days in the county jail as a condition of his probation. Defense counsel agreed, and defendant personally admitted that he was in violation of the terms and conditions of probation. The trial court put the matter over to November 22, 2006.

On November 22, 2006, defense counsel inquired whether other than reporting, there would be other conditions added upon reinstatement on probation. The trial court replied that the previous order to pay actual restitution to the four victims would be required. Defense counsel asked whether defendant would be allowed to pay that restitution before he paid his other financial obligations on probation, and the trial court said it would make that order.

The trial court then mentioned that probation would be extended. Defense counsel interrupted and asked, "Was that part of the deal?" The trial court said the following: "Oh, yes. Otherwise [probation] would have been expired already. [Defendant has] been on probation for four years. I mean on bench warrant status for four years. He never reported." The trial court said that it was extending probation to November 22, 2009, three years from that day's date. Defense counsel protested that that was not what defendant had agreed to, and the trial court could not just keep "giving people new grants of probation."

The trial court told defense counsel that defendant had a significant amount of restitution and he would need time to pay it. Defense counsel said, "That's not a reason to extend today." The trial court explained that it was extending probation because after his release in 2001, defendant never reported to the probation department. Consequently, defendant had not received probation supervision for the requisite period of time. The trial court was not going to "total out" the entire period of probation. Defense counsel said, "You could have done that," and "That's not the deal [defendant] agreed to when he entered into -- admitted a violation." She complained that the trial court had said nothing at the time of admission about extending probation. The trial court said, "We're talking about four months," and if defendant actually was to pay all the restitution he owed, the trial court would be "thrilled," would "do back flips," and would terminate defendant's probation early.

Defense counsel and the prosecutor started bickering about something unrelated to the proceedings. The trial court brought the bickering to a halt by ordering probation

extended to November 22, 2009. Defense counsel said, “I’m objecting,” and “I’ll file an appeal on this.”

The trial court ordered defendant to spend 92 days in jail, with credit of 92 days time served, and ordered defendant to report to the probation department within 48 hours.

In propria persona, defendant filed a notice of appeal from the trial court’s order revoking and reinstating probation. It said that defendant wanted to raise on appeal the improper extension of probation, and the notice of appeal cited in support of the claim. (*People v. Jackson* (2005) 134 Cal.App.4th 929.)

We briefly researched whether defendant had grounds to complain about the extension of probation. At reinstatement of probation on November 22, 2006, defense counsel did not specifically ask the trial court to set aside the admission or claim that defendant would not have admitted the violation had he known that probation would be extended three years. Extending probation for a sufficient period to permit defendant to make restitution was an implicit condition of the order reinstating probation. (See *People v. Walker* (1991) 54 Cal.3d 1013, 1024 [standard condition of probation may be imposed even if not part of plea negotiations]; *People v. Marsh* (1984) 36 Cal.3d 134, 140.) Section 1203.1, subdivision (a), permitted the trial court to place defendant on probation for a maximum period of five years. Sections 1203.1, subdivision (a), 1203.2, subdivisions (a), authorized the trial court to reinstate probation for three years from the date of reinstatement so that defendant had an adequate period in which to make restitution.

We have examined the entire record and are satisfied that defendant’s attorney has fully complied with her responsibilities and that no reasonably arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The order under review is affirmed.

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